1951. **K** **File No.** O. Trade unions 51

Legal Dept.

A. **BRANCH**

Subject:— Opinions under the Indian unions Act 1926

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C O N T E N T S .

Legal Department File No. O. Trade Unions/1951.

Sr.No.	R.I./O.No.	Subject.	Pages.
		Indian Trade Unions Act, 1926.	
1.	12994 13-8-51.	Whether the Huzur Khasgi Nokar Sangli, Kolhapur can be registered as a Trade Union under ----	1-4.
2.	21470 17/10/51. 18542 20/11/51.	Servants employed by His Highness of Kolhapur. Whether persons who are employed as domestic servants of the employer can form a trade union or apply for registration under section 4.	5-8.

JPE.2/7/56.
6 copies.

Office of the R.L.A.

The question raised for the R.L.A.'s consideration is whether the Huzur Khasgi Nokar Sangh, Kolhapur, can be registered as a Trade Union Under the Indian Trade Unions Act, 1926. The Sangh embraces various catagories of employments such as clerks, carpentars, blacksmiths, motor-drivers, mechanics, coolies, sweepers, peons etc. who are employed by the Huzur Khasgi Department of H.H. the Maharaja of Kolhapur. Section 4 of the Indian Trade Unions Act, 1926, provides that any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union Under this Act. "Trade Union" as defined in section 2(n) means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between the workmen and employers or between workmen and workmen or between employers and employers or for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two or more Trade Unions. "Workmen" as defined in section 2(m) means all persons employed in trade or industry, whether or not in the employment of the employer with whom the trade dispute arises. "Industry" as defined in section 2(d) means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen. Undoubtedly the word "industry" has been given a very wide meaning and it covers a wide field of activity. However, it is very doubtful that the employment or service of servants in private homes is "employment" or service

in the sense inteded by the definition. There is no resemblance whatsoever to ordinary trade, business or industry. Nor any private householders who are employers of domestic servants can be said to be carrying on or are engaged in any industry, trade, business, undertaking etc. It, therefore, follows that persons who are employed as deomestic servants of an employer cannot form a trade union or apply for registration under section 4 of the Act.

Id/- J.R.D.
18/8

Remembrancer of Legal Affairs.

U.R. to L.& H.D. No. 12994,
dated the 13th August 1951.

JPE.2/7/56.4c.

Legal Department.
R.I.No.21470 dated 17-10-1951.

Submitted with reference to the note of the L.&H. Deptt. at p. 63 ante.

Attention is invited to the R.L.A's opinion No. 12994 dated 13-8-1951 at p. 19 ante. Strictly speaking "domestic servants" do not fall within the definition of "Workmen" in 2(m) of the Indian Trade Unions Act, 1926 read with the definition of "Trade Union" in section 2(n) even after taking into consideration the very wide definition of the word "industry" as given in section 2(n) of the Act containing the ordinary words like service and employment. It was therefore held in that opinion that persons who are employed as domestic servants of an employer cannot form a trade union or apply for registration under section 4 of the Act. The President of Huzur Khasgi Nokar Sangh, Kolhapur, has urged in his letter dated 10/7/1951, that the servants employed by His Highness of Kolhapur are not strictly speaking his domestic servants and the very wide definition of the word "industry" embraces all kind of service and employment and has therefore pressed for the registration of their union under the Trade Unions Act, 1926. Afternthe receipt of the R.L.A's opinion No. 12994 dated 13/8/1951, the Under Secretary to the Govt. of Bombay, Labour and Housing Department, Bombay, referred the matter to the SEcretary to the Government of India, Ministry of Labour, New Delhi in his letter dated 10/9/1951 at p. 55 ante. The reply dated 24-9-51 received from the Govt. of India, Ministry of Labour, at p. 61 ante states, "I am directed to say that a number of trade unions of domestic workers are being registered in several States, It is an intention of the Govt. of India that there should not be ordinarily any difficulty in registering trade unions of domestic workers." The papers have been sent to the R.L.A. with reference to his opinion No. 12994 dated 13/8/1951."

Office of the R.L.A.

The Government of India's letter at page 61 antex is seen and returned. The Government of India has not given any reasons in support of its view.

Id/- J.R.D.
20/11

Remembrancer of Legal Affairs.

U.R. to L. & H.D. No. 18542,
dated the 20th November 1951.

JPE.2/7/56.
4 copies.

12/7